

FUNDS”), and the UNITED UNION OF ROOFERS, WATERPROOFERS AND ALLIED WORKERS, LOCAL NO. 11 (“LOCAL 11”).

2. The Defendant is J & F CHIATTELLO CONSTRUCTION, INC. (“JFCCI”).
3. James Chiattello (“Chiattello”) is the President of JFCCI.
4. On February 19, 2021, the Plaintiffs filed their Complaint in the above-captioned matter. (Docket No. 1).
5. On April 12, 2022, Plaintiffs, JFCCI, and Chiattello entered into a Settlement Agreement. (A copy of the fully executed Settlement Agreement is attached as **Exhibit 1**)¹.
6. The Settlement Agreement required JFCCI and Chiattello to pay off the principal amount of \$90,648.37 over an eighteen (18) month period. (**Exhibit 1** ¶¶ 1-2).
7. Pursuant to the Settlement Agreement, failure by JFCCI and Chiattello to timely submit the installment payments required by the Settlement Agreement constitutes a default of the Settlement Agreement. (**Exhibit 1** ¶ 10).
8. The Settlement Agreement also required JFCCI and Chiattello to timely submit monthly contribution remittance reports and payments to the Plaintiffs during the duration of the Settlement Agreement. (**Exhibit 1** ¶ 6).
9. Pursuant to the Settlement Agreement, failure by JFCCI and Chiattello to timely submit monthly contribution remittance reports and payments to the Plaintiffs during the duration of the Settlement Agreement constitutes a default of the Settlement Agreement. (**Exhibit 1** ¶ 10).
10. On April 12, 2022, the Plaintiffs, on behalf of all the parties, submitted a Stipulated Order of Dismissal with the Court to Retain Jurisdiction to Enforce the Terms of the Parties’

¹ Based on the financial/account information provided by JFCCI and Chiattello in response to Exhibit D to the Settlement Agreement, the Plaintiffs have not included Exhibit D as a part of **Exhibit 1** to this motion.

Settlement Agreement (“Stipulated Order of Dismissal”) to the Court’s proposed order inbox.

11. On April 18, 2022, based on the agreement and representations of the parties, this Court entered the Stipulated Order of Dismissal, which dismissed the above captioned matter without prejudice and indicated that the dismissal would convert to one with prejudice absent reinstatement on or before October 1, 2023. (Docket No. 19); (A copy of the Stipulated Order of Dismissal is also attached hereto as **Exhibit 2**).
12. JFCCI and Chiattello have failed to submit payment of the installment due on April 1, 2023. (**Exhibit 3**).
13. The failure of JFCCI and Chiattello to pay the installment due on April 1, 2023, constitutes a default of the Settlement Agreement. (**Exhibit 1 ¶ 10**).
14. JFCCI and Chiattello failed to timely submit monthly contribution remittance reports and payments to the Plaintiffs for August 2022, October 2022, November 2022, December 2022, and January 2023. (**Exhibit 3**).
15. The failure of JFCCI and Chiattello to timely submit monthly contribution remittance reports and payments to the Plaintiffs for August 2022, October 2022, November 2022, December 2022, and January 2023 constitutes a default of the Settlement Agreement. (**Exhibit 1 ¶ 10**).
16. The Settlement Agreement states that upon default, all remaining payments will be accelerated and become immediately due and payable. (**Exhibit 1 ¶ 11**).
17. The Settlement Agreement also states that upon default, additional liquidated damages charge of 10% of all unpaid amounts shall become due and payable by JFCCI. (**Exhibit 1 ¶ 11**).

18. The Settlement Agreement further states that upon default, the Plaintiffs may petition the Court to reinstate the above-captioned lawsuit and to obtain immediate entry of judgment against JFCCI. (**Exhibit 1 ¶ 11**).
19. The Settlement Agreement further states that upon default, JFCCI confesses judgment for any and all outstanding installments due under the Settlement Agreement. (**Exhibit 1 ¶ 11**).
20. The Settlement Agreement further states that in the event the Plaintiffs are required to engage an attorney to enforce JFCCI and Chiattello's obligations, or to collect any amounts due under the Settlement Agreement, JFCCI and Chiattello shall be liable for all reasonable attorney's fees and costs incurred by the Plaintiffs. (**Exhibit 1 ¶ 11**).
21. Pursuant to the Stipulated Order of Dismissal, this Court retained jurisdiction over the parties and the Plaintiffs were granted leave to reinstate the proceedings in the above-captioned matter to enforce the terms of the Settlement Agreement prior to October 1, 2023. (Docket 19); (**Exhibit 2 ¶ 2**).
22. The parties are barred from relitigating any claims raised in this litigation or any claims released by means of the Settlement Agreement. (Docket 19); (**Exhibit 2 ¶ 2**).
23. As a result of JFCCI's default under the Settlement Agreement, Plaintiffs accelerated the remaining installments and JFCCI owes a balance of \$31,980.00 to the Plaintiffs pursuant to the Settlement Agreement. (**Exhibit 3**).
24. JFCCI also owes the Plaintiffs liquidated damages of \$3,198.00 as a result of its default under the Settlement Agreement. (**Exhibit 3**).

25. As a result of JFCCI's failure to timely remit contributions and dues to the Plaintiffs for August 2022, October 2022, November 2022, December 2022, and January 2023, JFCCI owes liquidated damages totaling \$4,289.49 and interest totaling \$605.12.
26. Additionally, JFCCI is liable to Plaintiffs for \$2,770.85 in reasonable attorney's fees and costs expended to enforce JFCCI's obligations and to collect amounts due pursuant to the Settlement Agreement. (An Affidavit of Attorney's Fees is attached as **Exhibit 4**).
27. A proposed order has been submitted to the Court's proposed order email box.

WHEREFORE, Plaintiffs respectfully request:

- A. That this matter be reinstated, and that Judgment be entered in favor of Plaintiffs and against JFCCI, in the aggregate amount of \$42,843.46, itemized as follows:
 1. \$31,980.00 that remains due pursuant to the Settlement Agreement;
 2. \$3,198.00 in liquidated damages for breach of the Settlement Agreement;
 3. \$4,289.49 in liquidated damages for late contributions and dues;
 4. \$605.12 in interest for late contributions and dues; and
 5. \$2,770.85 in attorney's fees and costs.
- B. That Plaintiffs have such other relief and further relief as the Court may deem just and equitable at all the cost of Defendant JFCCI, pursuant to 29 U.S.C. § 1132(g)(2)(E).

Respectfully Submitted,

ROOFERS' PENSION FUND *et al.*

/s/ William M. Blumthal, Jr. - 6281041

One of Plaintiffs' Attorneys

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 6, 2023, he caused a true and correct copy of **Plaintiffs' Motion to Reinstate the Lawsuit and for the Immediate Entry of Judgment Against J & F Chiattello Construction, Inc.** to be served upon the Defendant via U.S. First-Class and electronic mail at the addresses set forth below:

J & F Chiattello Construction, Inc.
1387 Joliet Street, Suite C
Dyer, Indiana 46311
jfchiattello@gmail.com

/s/ William M. Blumthal, Jr.
One of Plaintiffs' Attorneys